



**Michigan Farm Bureau
Written Testimony on SB 163
Senate Natural Resources, Environment and Great Lakes Committee
May 2, 2013**

Michigan Farm Bureau is the state's largest general farm organization representing over 48,000 farm family members.

Over the past, several months we have engaged in providing our concerns, as well as plausible solutions. As a partner of this process, Michigan Farm Bureau has remained consistent in compromising where allowed by our policy and adamantly opposing areas that go beyond the confines of our policy.

We appreciate your recognition that our ability to continue to move forward will be impaired by wetlands policy that is in opposition to MFB policy. To be clear, MFB members have adopted policy #80 Wetlands Protection Act and #79 Waters of the United States, and included are some excerpts of these policies with reasoning.

We recommend continued implementation of the 2009 Michigan wetland law changes and retaining wetland programming with the State of Michigan, not with the EPA.

Man made ditches and streams that only flow as a result of rainfall events should not be considered wetland or waters of the United States. An agricultural drain that has intermittent flow should not be considered a regulated wetland. MFB has proposed the addition of a definition for "agricultural drain" that explicitly excludes an agricultural drain from wetland regulation.

We oppose expansion of the Clean Water Act definition of "Waters of the United States" by any means. Michigan's regulation of the waters of the State should not be more restrictive than the Clean Water Act when performing delegated responsibilities.

The powers, duties, functions, and responsibilities delegated to the Department under the Water Pollution Control Act should be restricted to only "water of the United States" as defined by federal law, promulgated rule, and court decisions that have the full force and effect of law. Any laws or rules to protect Michigan waters beyond the scope of federal law should be the sole responsibility of the Michigan legislature to act in the best interest of the citizens of Michigan. MFB has offered language prohibiting a state agency from use of federal guidance to broaden the scope of federal jurisdiction or for regulatory enforcement purposes within the state.



Current agricultural exemptions in State law are appropriate and should be maintained. If agricultural exemptions must be changed to meet the Clean Water Act (CWA), we support the development of a practice-based permit for common wetlands, lakes and streams activities. USEPA has determined that Michigan's long standing exemptions for agricultural activities in wetlands do not meet rules associated with the Clean Water Act. As a condition of retaining our delegated authority, USEPA is requiring Michigan to issue permits to perform exempted agricultural activities in wetlands where exempted agricultural activities have not been performed in the past. MFB has offered language that would create an alternate process based on use of a conservation easement for farming activities associated with the planting of obligate or facultative wetland crop species (e.g. blueberries, cranberries, and wild rice) and further language that would develop a blueberry production assistance program administered by MDEQ in cooperation with MDARD.

Michigan applies rigorous delegated responsibilities to a broader definition of wetlands than that of the Clean Water Act. We support the regulation of a wetland if it meets the same criteria as based on US Army Corps of Engineers' 1987 Delineation Manual and Regional Supplements. MFB has also offered language that would clarify regulation of state wetlands. This would be accomplished by defining the term "contiguous" within Michigan law and requiring the department to utilize scientific evaluation in determining regulated wetlands that are within 500' of a navigable water or interstate water.

Agricultural conservation practices which prevent erosion and unrestricted access to streams by livestock such as appropriate fencing and constructed livestock crossings should not require a permit.

Cutting vegetation in a wetland does not constitute "filling" a wetland.

I hope this information is beneficial and will assist you as you continue to work on this vitally important legislation. We look forward to a product that our member can get behind and showcase as a model for others.

If you have questions, please feel free to contact me at (517) 323-7000 ext. 2044.

Sincerely,

Matthew A. Smego

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